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LETTER DATED 16 JULY 1993 FROM THE PERMANENT REPRESENTATIVE OF KUWAIT TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to inform you of the latest developments with regard to Iraq's failure to comply with Security Council resolution 687 (1991) and the other relevant resolutions since the Council's last review of the sanctions regime against Iraq on 21 May 1993. This conduct constitutes a flagrant breach of the commitment it entered into on accepting that resolution and persistent defiance of the will of the international community. Iraq's approach to the discharge of its obligations under the relevant Security Council resolutions has remained basically unchanged in spite of its superficial claim to be implementing them in order to have the sanctions lifted without fully shouldering its basic responsibilities in respect of the substance and the spirit and letter of those resolutions. The following account of some Iraqi practices provides evidence of its failure to comply with the resolutions of the international community.

I. United Nations Iraq-Kuwait Boundary Demarcation Commission

In spite of the provisions of paragraphs 2, 3 and 4 of Security Council resolution 687 (1991) to the effect that Iraq and Kuwait should respect the inviolability of the international boundary between them and in spite of the fact that the Iraq-Kuwait Boundary Demarcation Commission completed all of its work and the tasks assigned to it under resolution 687 (1991) on 20 May 1993, Iraq continues to insist on its position, which challenges the Commission's reports and decisions. This position constitutes a clear proof of its reneging on resolution 687 (1991), as may be inferred from a review of the following practices:

(a) A letter dated 7 June 1993 from the Minister for Foreign Affairs of the Iraqi regime attacks the Boundary Demarcation Commission and its credibility and questions the impartiality of its members and the legitimacy and justice of its decisions. It also challenges the authority of the Security Council and some of its members and attacks the United Nations by impugning its senior officials. Furthermore, the letter reveals Iraq's position disputing the existence of Kuwait as an independent sovereign entity. The Security Council responded to such excess in the form of a statement by its President dated 28 June 1993, as it had responded previously when Iraq disputed Kuwait's existence in the form of the President's statement of 17 June 1992, which states

in one of its paragraphs, and I quote: "The members of the Council firmly reject any suggestion that tends to dispute the very existence of Kuwait, a Member State of the United Nations."

(b) Its persistent disregard of the binding and definitive nature of the Commission's decisions concerning the demarcation of the land and offshore boundaries.

(c) Its position on Security Council resolution 833 (1993) adopted under Chapter VII of the Charter, in which the Council welcomed the Committee's decisions regarding the demarcation of the land and offshore boundaries and demanded that Iraq and Kuwait respect the inviolability of the international boundary between the two countries and the right to navigational access.

(d) The infiltration by some elements across the boundary line to carry out sabotage operations and attack Kuwaiti property in the border area.

(e) Its refusal to cooperate with the United Nations in its current efforts to delimit farms and carry out a census of Iraqi farmers who are at present in Kuwaiti territory adjacent to the Iraqi border with a view to compensating and evacuating them.

II. Iraqi assertions that Kuwait belongs to it

As we are aware of the danger of Iraqi claims and of the fact that they must not be ignored or passed over in silence, we sent two letters to the President of the Security Council, which were issued as documents S/25384 and S/25465 dated 8 and 23 March 1993 respectively, in which we described the adverse repercussions of these claims on peace and security in the region because of the persistence of Iraqi designs on Kuwait. Given Iraq's indifference to the resolutions of the Security Council and its failure to comply with the demands of its members, it must be summoned to desist from these claims each time the sanctions regime is reviewed, since they constitute unequivocal defiance of the substance of those resolutions, which require Iraq to respect the independence and sovereignty of Kuwait, its territorial integrity and its international legitimacy.

We wish to review some of these Iraqi claims that have come to light since the last review, for your benefit and for the benefit of the members of the Security Council:

1. On 24 May 1993 the Iraqi Minister of Information, Nuri Najm al-Marsumi, referred in an article published in the Iraqi newspaper Al-Thawrah to Kuwait's being "remote from its Iraqi national environment" and in a later paragraph to "raising the consciousness of the Iraqis of Kuwait". In a subsequent paragraph he says "Iraq's acceptance of the resolutions of the Security Council and its full commitment to their implementation should not be interpreted as meaning that Iraq accepts encroachments on its boundaries". After lengthy assertions and threats in this vein, he states: "We issue a warning that, when Iraq's patience is exhausted, tunnels and walls will be of no avail and the thieves of Kuwait will find no means of moving to Riyadh this time round." All of this demonstrates the hostile bent of Iraqi policy, with its persistent talk of a further invasion and occupation of Kuwait.

2. On 2 June 1993, the Iraqi Minister of Oil, Usama Abd ar-Razzaq al-Hithi, said in an interview with the Iraqi newspaper Al-Jumhuriyah: "We have a historic right to Kuwait, and it was snatched from us unjustly and aggressively."

III. The question of Kuwaiti prisoners and missing persons and nationals of the following countries:

With regard to this purely humanitarian question, although two years have passed since the adoption of Security Council resolution 687 (1991) and in spite of Iraq's official acceptance of that resolution, no progress whatsoever has been made in the matter for the following reasons:

1. Iraq has not yet discharged its obligations under paragraph 30 of that resolution, which requires it to extend all necessary cooperation to the International Committee of the Red Cross (ICRC), by providing lists of such persons, facilitating the access of the Committee to the places where they are located or detained and facilitating the Committee's search for them.

2. Although four months have passed, Iraq has not yet replied to the official request to it from ICRC for information concerning the files of 627 individuals, thus reneging on its previous undertaking to reply regarding any file within 10 days of receiving it.

3. Outside the context of the Security Council's mechanism for dealing with this matter, Iraq has prevented the Secretary-General's Envoy to the League of Arab States, Mr. Rashid Idris, from carrying out his mission to visit Iraq and use his good offices as a mediator for the release of the prisoners and detainees. It has also thwarted the efforts of the Moroccan monarch, King Hassan II, and his gracious mediation with a view to securing the release of Kuwaiti prisoners and detainees.

IV. Return of property stolen from the public and private sectors

Despite Iraq's superficial cooperation in this matter, it should be borne in mind that, what Iraq returns in fulfilment of its obligation under resolutions 686 (1991) and 687 (1991) represents an incomplete implementation of those resolutions for the following reasons:

1. Most of the equipment handed over by Iraq has been intentionally wrecked or destroyed, even just a few hours before the hand-over, which renders them worthless and of no further use.

2. The Iraqi authorities still insist that they are not responsible for the return of property worth hundreds of millions of dollars stolen from the private sector, some of which was burned and some of which was moved to Iraq according to inventories published by Iraqi ministries, signed and sealed by special government bodies that came to Kuwait to supervise the stealing and transport operations. We have in our possession a number of originals and photocopies of such records which were left behind by the Iraqi regime when it was expelled.

3. Iraq is not fulfilling its obligations with regard to the lists agreed on with the United Nations Coordinator for the hand-over of stolen property inasmuch as it is constantly out to postpone and delay the hand-over operations, which entails additional financial costs and administrative measures for Kuwait.

V. The Compensation Fund

Iraq has not fulfilled its obligation with regard to compensation under section E of resolution 687 (1991), operation of the Compensation Fund in the manner specified in paragraph 19 of the resolution and disclosure of its gold and hard currency assets, since it persists in refusing to implement resolutions 706 (1991) and 712 (1991), a violation that entails double misfortune for Iraqis and non-Iraqis alike. This question is also a humanitarian issue of great importance which Iraq should be made to answer for in full.

VI. Weapons of mass destruction

Iraq's cooperation with the Special Commission and the International Atomic Energy Agency has not been up to standard inasmuch as Iraq, in spite of its claims to be providing information on the programme for the development of chemical and biological weapons and cooperating with the inspection teams, systematically restricts the freedom of movement of the United Nations Special Commission and has on several occasions, as you know, threatened individuals serving on the Commission. Moreover, in an act of barefaced defiance it currently refuses to permit the installation of cameras in weapons development sites prohibited under resolution 687 (1991). In addition, Iraq still refuses to accept United Nations resolutions 707 (1991) and 715 (1991) concerning long-term monitoring of weapons of mass destruction in its possession and to reveal the names of the companies that supplied it with the materials and equipment to produce such weapons.

VI. Terrorism

As usual, the Iraqi regime is not complying with the provisions of section H, paragraph 32, of resolution 687 (1991), which "requires Iraq to inform the Security Council that it will not commit or support any act of international terrorism or allow any organization directed towards the commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism". But what was the attempt by Iraqi Intelligence to assassinate and to blow up the former United States President George Bush and his entourage during his visit to Kuwait but an act of international terrorism and a flagrant violation of resolution 687 (1991)? Those accused of this act are currently being tried before an open court in Kuwait in full view of the Arab and foreign media and in the presence of representatives of humanitarian organizations. The accused are being represented by lawyers, some of whom they chose themselves and some of whom were appointed by the court in deference to the absolute right to defence under the law.

The questions raised above are reliable indicators of Iraq's persistent pursuit of a policy of defiance of the resolutions of the Security Council. As the main aim of these resolutions is to secure full respect for Kuwait's independence, sovereignty and territorial integrity, the international community

must take appropriate measures to secure Iraq's compliance in letter and spirit with all relevant Security Council resolutions. It should not merely focus on dealing with questions and issues arising from Iraq's invasion of Kuwait because unless the reasons for the invasion are addressed, that is to say the continued assertion that Kuwait is a part of Iraq, the matter will not be settled and Iraq's intentions will continue to pose a threat to security and peace in the region.

I should be grateful if you would have this letter and its annexes circulated as an official document of the Security Council.

(Signed) Mohammad A. ABULHASAN
Permanent Representative